

No. 14/13/87-6Lab./565.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court II, Faridabad in respect of the dispute between the workman and the management of M/s. Bhart Works Metal, Faridabad *versus* Rajan :—

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER
LABOUR COURT-II, FARIDABAD

between

THE MANAGEMENT OF M/S BHART WORKS METAL, C-323, SANJAY GANDHI
MEMORIAL NAGAR, 22 KHURD ROAD, N.I.T. FARIDABAD

and

THE WORKMAN NAMELY SHRI RAJAN, C-475, DABUA COLONY, FARIDABAD

Present :

None

AWARD

In exercise of the powers conferred by clause (c) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act'), the Governor of Haryana referred the following dispute, between the parties mentioned above, to this Court for adjudication,—*vide* Haryana Government Endst. No. 43112-17, dated 31st January, 1993 :—

Whether the termination of services of Shri Rajan is legal and justified? If not, to what relief is he entitled to?

2. Notice sent to the workman have been received back for want of complete address. Notice sent to the management has been received back with the remarks that the firm had shifted. In these circumstances, the court is left with no option but to pass no claim award and it is passed accordingly.

The 16th August, 1994.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.

Endorsement No. 2754, dated the 22nd August, 1994.

A copy, with three spare copies is forwarded, to the Financial Commissioner, and Secretary to Government Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.

No. 14/13/87-6Lab./566.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad in respect of the dispute between the workman and the management of M/s. Chief Administrator, Faridabad Complex Adm., Faridabad *versus* Sukhbir :—

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER,
LABOUR COURT-II, FARIDABAD

between

THE MANAGEMENT OF M/S. CHIEF ADMINISTRATOR, FARIDABAD COMPLEX
ADMINISTRATION, FARIDABAD

and

THE WORKMAN NAMELY SHRI SUKHBIR C/O SHRI C. L. GERA, 2A/118,
N. I. T., FARIDABAD

Present :

Shri G. L. Gera, for the workman.
None for the management.

AWARD

In exercise of the powers conferred by Clause (c) of Sub Section (1) of Section 10 of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the Act'), the Governor of Haryana has referred the following dispute, between the parties mentioned above to this Court for adjudication,—*vide* Haryana Govt. Ends! No. 45484-89, dated 11th November, 1993 :—

Whether the termination of services of Shri Sukhbir Singh is legal and justified? If not, to what relief is he entitled to?

2. The case of the workman is that he was appointed by the management on 1st April, 1979 as a sweeper on a salary of Rs. 220 p. m. He has been working satisfactorily but on 31st December, 1992 his services were terminated illegally without assigning any reason. He is thus, entitled to be reinstated into service with full back wages.

3. The management appeared and sought adjournments to file written statement. On 31st May, 1994 the management did not appear and as such it was ordered that the management be proceeded against *ex parte*.

4. The workman has examined himself on oath and WW-2 Lakhmi Ram in *ex parte* evidence.

5. I have heard the authorised representatives of the workman and have also gone through the evidence on record.

6. The workman has deposed facts mentioned in his demand notice and claim statement referred to above. He further stated that his mother who was a permanent employee of the respondent has been missing since 22nd May, 1989. He could be thus, confirmed in service as per instructions dated 11th September, 1989 Ex.W 1. He also placed on record the failure report Ex. W-2 submitted by the Labour-cum-Conciliation Officer before the Deputy Labour Commissioner, Faridabad. WW-2 Lakhmi Ram also confirmed the version of the workman that he had been employed since 1st April, 1979 and that his mother had been missing since 22nd May, 1989. There is no rebuttal to this version. The perusal of the failure report Ex. W-2 shows that the management had not furnished any written reply before the Labour-cum-Conciliation Officer. In these circumstances, the version of the workman that he had been employed with the management since 1st April, 1979 has to be accepted. It is clear that the workman had rendered service for a period of more than 240 days continuously before the date of termination of his service. His services could not be terminated without complying with the mandatory provision of Section 25-F of the Act. The workman has vouched that he has not been paid retrenchment compensation. It is thus, held that the termination of services of the workman by the management is illegal and unjustified. The workman is entitled to be reinstated into service with continuity in service and full back wages. The award is passed accordingly.

The 16th August, 1994.

U. B. KHANDUJA,
Presiding Officer,
Labour Court-II,
Faridabad

Endorsement No. 2755, dated 22nd August, 1994.

A copy, with three spare copies, is forwarded to the Financial Commissioner and Secretary to Government Haryana Labour Department Chandigarh.

U. B. KHANDUJA,
Presiding Officer,
Labour Court-II,
Faridabad.

No. 14/13/87-Lab./578.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad in respect of the dispute between the workman and the management of M/s. Mehra Brevaris Pvt. Ltd., Palwal *versus* Mahinder Singh.

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II, FARIDABAD

Reference No. 16 of 1994

between

THE MANAGEMENT OF M/S MEHRA BREVARIS PVT. LTD., 54 KM. STONE, MATHURA ROAD, AGWANPUR, PALWAL, DIST. FARIDABAD

versus

THE WORKMAN NAMELY SHRI MAHINDER SINGH, C/O SHRI D. B. PRASHER ADVOCATE, CIVIL COURT, PALWAL

Present :

Shri Subhash Verma, authorised representative, for the management,
None, for the workman.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the Act'), the Governor of Haryana referred the following dispute, between the parties mentioned above, to this Court, for adjudication,—*vide* Haryana Government Endorsement No. 647—52. dated 6th January, 1994 :—

Whether the termination of services of Shri Mahinder Singh is legal and justified. If not, to what relief, he is entitled to ?

2. Notice was sent to both the parties. Shri Balbir Singh, authorised representative appeared for the workman and sought three adjournments to file claim statement. On 12th May, 1994, Shri Balbir Singh reported that the workman had expired. He requested for adjournment to file claim statement through LR's of the deceased workman and the case was adjourned to 18th August, 1994 for the said purpose.

3. Shri Subhash Verma represented the management.

4. On 18th August, 1994 none appeared on behalf of the workman. It was thus, ordered that the management may file written statement and affidavit in support of the contentions of the management.

5. The management has filed written statement as well as affidavit.

6. I have heard Shri Subhash Verma, authorised representative for the management and have also gone through the file.

7. It was the duty of the workman to file claim statement as per provision of Rule 10-B of the Industrial Disputes Act (Central Rule 1957). In the instant case the workman expired before submitting the claim. In the absence of the claim statement from the side of the workman the written statement filed by the management can not be considered. In the circumstances, the court is left with no option but to pass no claim award and it is passed accordingly.

The 31st August, 1994.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II, Faridabad.

Endorsement. No. 2808, dated the 31st August, 1994.

A copy with three spare copies is forwarded to the Financial Commissioner and Secretary to the Government, Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II, Faridabad.

No. 14/13/87-6Lab./589.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad in respect of the dispute between the workman and the management of M/s. P.S.B. Paper Mill, Pvt. Ltd., Faridabad *versus* Naazar.

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II,
FARIDABAD

Reference No. 155 of 1993

between

THE MANAGEMENT OF M/S P.S.B. PAPER MILL PVT. LTD., 87-88, SECTOR 25,
FARIDABAD

versus

THE WORKMAN NAMELY SHRI NAAZAR, C/O SHRI SHAM SUNDER GUPTA, 50,
NEELAM CHOWK, FARIDABAD

Present :

Shri Balbir Singh, authorised representative, for the workman.

Shri H. L. Kapoor, authorised representative, for the management

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), the Governor of Haryana referred the following dispute between the parties mentioned above, to this Court for adjudication.—*vide* Haryana Government Endst. No. 24044-49, dated the 7th June, 1989 :—

Whether the services of Shri Naazar have been terminated or he has lost lien on the job by remaining absent of his own? To what relief, is he entitled on the decision of this issue?

2. Notice was sent to both the parties and they submitted pleadings. Issues were framed. The management also closed oral evidence.

3. At the aforesaid stage, the matter has been settled by the parties amicably. The workman has been paid a sum of Rs. 9,000 by way of his full and final dues. He has relinquished his right to reinstatement. The dispute referred to this court does not survive for adjudication. The award is passed accordingly.

U. B. KHANDUJA,

Presiding Officer,

Labour Court-II, Faridabad.

The 7th September, 1994.

Endorsement No. 2846, dated the 9th September, 1994.

A copy, with three spare copies, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,

Labour Court-II, Faridabad.

The 26th September, 1994

No. 14/13/87-6 Lab./460.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Bharat Steel Tubes Manufacturing Ltd. Ganaur, Sonapat *versus* Satish Chand Nain.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 285 of 1988

between

SHRI SATISH CHAND NAIN, HOUSE NO. 2-A/19, RANIK NAGAR, GANAUR,
DISTRICT SONEPAT: WORKMAN

and

M/S BHARAT STEEL TUBES MANUFACTURING LTD., GANAUR (SONEPAT)

Present :

Shri V. S. Singal. A. R. for the workman.

None for the management (*ex parte*).

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 on the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication, —vide Labour Department Endst. No. S.O.V./ID/Soni/93-88, 28870 75, dated 9th June, 1988 :—

Whether the termination of services of Shri Satish Chander is justified and in order ? If not, to what relief he is entitled ?

2. The workman and the management were summoned. The workman appeared and filed the claim statement that he was working with the employer since 3rd September, 1965 as a Sr. Purchase Supervisor in the grade of Rs. 900—60—1200—75—1575—90—2025 per month and not giving any chance of complaint during the period of service. But the management terminated the services of the workman on 20th November, 1987 without assigning any reason or reasonable cause. The workman was appointed on permanent post and was permanent hand and thus entitled to be heard before giving any sort of punishment to him. Therefore, said termination is absolutely illegal unwarranted and against the principle of natural justice. No enquiry was held, no notice was given to the workman and neither any seniority list was displaced by the management and nor any notice on the prescribed form was sent to the Government and nor the workman was paid retrenchment compensation, in this way the management have contrary Section 25-F of the Industrial Dispute Act. Some junior persons are also working in the office in this way the management have contravened Section 25-G and H of the Industrial Disputes act and he reinstated with full back wages and continuity of service.

3. The management appeared and filed the written statement that the applicant is not a workman, hence, he is not competent to raise the demand notice in question; the reference made by the Government is as such had in law and is not maintainable and hence this Court has no jurisdiction over the matter. The applicant was working in supervisory capacity and was getting salary of more than Rs. 1600 P. M. hence he is not a workman, his services were terminated for administrative reasons strictly in terms of the clause 5 of his appointment and clause 13-A (i) of the Company's Service Rules so applicable to him. Even otherwise, when termination is in accordance with condition of appointment, no enquiry is necessary before initiating the action; applicant's post is not comparable to other employees, he was senior purchase officer which is managerial and supervisory post and a number of workers were working under him and hence this petition is dismissed with costs.

4. Replication was filed by the workman. On the pleadings of the parties, the following issues are framed :—

- (1) As per terms of reference ?
- (2) Whether the applicant is not a workman ?
- (3) Whether this Court has no jurisdiction to try the reference ?
- (4) Relief ?

5. My finding on the above issues with reasons thereof are as under :—

Issue No. 1 & 2 :—

6. Since both the issues are over the same facts and hence I am taking up both the issues for the decision together.

7. The workman has come into witness box as WW-1. The workman was suggested that he was authorised to purchase of goods Rs. 2000 without any order being given from Head. He admitted that he was appointed as Purchase Supervisor. WW-2 Shri Ishwar Tyagi was also made statement that he and applicant used to work together in different department of the management and the applicant was not having any administrative powers and both he and the workman working same type of duties i. e. purchasing of goods from market. He admitted that the applicant was empowered to purchase of goods worth Rs. 10 lacs but on the order issued by the overhead Officers.

8. The management has examined Vipin Prasher as MW-1 and who has made statement that he was posted as Personal Officer and factory is lying closed from 11th November, 1988 and Shri Satish Jain was working as senior purchase officer. He also produced the photo copy of Ex. MW-2/1 and Ex. MW-2/2. He also made statement that the applicant was used to purchase of good. The applicant used to have jeep of the company and the management to made purchases. He also made statement that

as the factor work stopped in the factory, therefore, the services of the applicant were terminated. He also made the statement in the cross-examination that the applicant was the Head of purchase Department and he used to look after another department of the respondent/management. The evidence of the management closed.

9. Ex. MW-2/2 is the authorisation for various goods purchase document and whereby senior purchase supervisor authorised to purchase thing of Rs. 2000.00. The applicant was also authorised to powers of approval of cash memo (other than procured from Government agencies/alloted quotas and supplies made at a price fixed by statutory regulations to be authorised by the Deputy Purchase Manager Ex. M-4 to Ex. M-9 are applications given by the applicant to the management for seeking medical leave or other leaves. Ex. M-11 is purchase order of the applicant with M/s. Ahuja Medical Stores, Gannaur. Ex. M-12 and Ex. M-13 are the copies of the orders passed by the applicant regarding purchasing material.

The question which arises for determination is whether the workman who was working as supervisor and had any employees under him to work or not. Statement of workman which is relevant to come to the conclusion is that he was appointed as Senior Purchase Supervisor and he also made statement that he used to purchase the article from market and he used to go himself to pickup the luggage. He also made statement that what so ever luggage purchased by said vouchers Ex. W-60 to W-62 and he used to draw the money and further he used to send the bills the photostate copies of which are Ex. W-68 to W-72. The applicant made the admission that he was drawing the pay of Rs. 1610.00 per month. He also made admission if any worker needed he used to employee and he could spent Rs. 200.00 He also made admission that under the clerks, Assistant and Sr. Assistants were working.

11. MW-1 is Vipin Prasher who made a statement that the applicant was given special power the copy of which is Ex. MW-1/2 and he used to purchase the goods on behalf of the management and four persons were working under the applicant. He used to accept or rejected the application for leave he had to power to spend Rs. 2000.00 per month. The applicant used to Jeep or Car of the Company.

12. From the evidence above it is proved that the applicant was working as senior supervisor, he had four other persons worked under him and the post of the supervisor does not come within the definition of the workman as defined in Industrial Dispute Act, 1947 and case of the applicant is not covered under the provision of the Industrial Dispute Act, 1947. Shri V. S. Singal learned Authorised

Representative for the applicant has placed reliance of reference between Mathur Aviation and Ltd. Governor, Delhi and others cited in L. L. J. (2), 255 but it is no help to the case of the applicant. Hence I decide both the issues against the workman and in favour of the management.

Issue No. 3 :

13. This issue is not pressed or argued by the parties. Hence I decide this issue against the management.

Issue No. 4 (RELIEF) :—

14. In view of my findings on the above issues, I hold that the applicant is not entitled to any relief. The reference is answered and returned accordingly, with no orders as to costs.

The 25th August, 1994.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Rohtak.

Endst. No. 285-88/2145, dated the 30th August, 1994.

Forwarded, (four copies), to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Rohtak.

P. R. KAUSHIK,

Financial Commissioner and Secretary to Government,
Haryana Labour and Employment Department.